

STATE BOARD OF EQUALIZATION
BEFORE THE ADMINISTRATIVE JUDGE

IN RE:	Tony W. Carrick, et. al)	
	Dist. 6, Map 59, Control Map 59, Parcel 14.00)	Bedford County
	Residential Property)	
	Tax Year 2006)	

CORRECTED
INITIAL DECISION AND ORDER

Statement of the Case

The subject property is presently valued as follows:

<u>LAND USE VALUE</u>	<u>IMPROVEMENT VALUE</u>	<u>TOTAL VALUE</u>	<u>ASSESSMENT</u>
\$116,500	\$193,800	\$310,300	\$77,575

LAND MARKET VLAUE: \$804,500

Appeals have been filed on behalf of the property owners with the State Board of Equalization on July 27, 2006.

These matters were reviewed by the undersigned administrative law judge pursuant to Tennessee Code Annotated (T.C.A.) §§ 67-5-1412, 67-5-1501 and 67-5-1505. This hearing was conducted on January 18th, 2007, at the Bedford County Property Assessor's Office. Present at the hearing were Tony W. Carrick, the taxpayer who represented himself. Also present were Rhonda Clanton, the Assessor for Bedford County, Mark Lamb an Appraiser from the Property Assessor's Office, Bobby Spencer and Tom Winfrey from the Division of Property Assessment for the State of Tennessee.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

The subject property consist of a single family residence located at 2764 Highway 231 North in Shelbyville, Bedford County, Tennessee.

The taxpayer believes that the subject property is worth \$10,000 based on a belief that there is an "inconsistency of property value" with other comparable property in the immediate area. Mr. Carrick presented several exhibits in an attempt to show that his land values were higher and therefore incorrect. Mr. Carrick continued to compare "condition factors" of the properties in the county rather than using paired data analysis. Mr. Carrick, in his Exhibit #50, using ten (10) properties showing their "Land Condition Factors"¹differences for 2005 and 2006, Mr. Carrick was unable to explain how these "factors"

¹ In doing a site analysis of land values the site data that is generally used includes frontage, width, depth, shape, area, topography and off site improvements; not unexplained "condition factors". *Property Assessment Valuation*, 2nd.Edition, International Association of Assessing Officers, © 1996

influenced market value rather he was convinced that because the factors fluctuated they must have something to do with values though he could not say what (taxpayer exhibit 50).

Mr. Carrick stated that the county was using these "factors" to inflate values. He continued to use this argument rather doing a paired data analysis in comparing the market value of comparable properties to show that the market values set by the county were incorrect.

Since the taxpayer is appealing from the determination of the Bedford County Board of Equalization, the burden of proof is on the taxpayer². See State Board of Equalization Rule 0600-1-.11(1) and *Big Fork Mining Company v. Tennessee Water Control Board*, 620 S.W. 2d 515 (Tenn. App. 1981).

The assessor contends that the properties should be valued at \$1,165,800, the value set by the County Board³.

The germane issue is the value of the properties of January 1, 2006. The basis of valuation as stated in T.C.A. § 67-5-601(a) is that "[t]he value of all property shall be ascertained from the evidence of its sound, intrinsic and immediate value, for purposes of sale between a willing seller and a willing buyer without consideration of speculative values"

After having reviewed all the evidence in this case, the administrative judge finds that the subject property should be valued at \$310,300 based upon the presumption of correctness attaching to the values set by the Bedford County Board of Equalization.

Generally, there are three approaches to determining the value of property. Some methods are more appropriate than others when dealing with specific types of property. For residential property it is well recognized that the Sales Comparison Approach is the most appropriate when comparable sales data is available as it was presented in this case.

The administrative judge finds that rather than discussing averages or percentages of increases the taxpayer should use sales and adjust them to the subject property by the acceptable procedures in the valuation of properties. As explained by the Assessment Appeals Commission in *E.B. Kissell, Jr.* (Shelby County, Tax Years 1991 and 1992) as follows:

The best evidence of the present value of a residential property is generally sales of properties comparable to the subject, comparable in features relevant to value. Perfect comparability is not required, but relevant differences should be explained and accounted for by reasonable adjustments. If evidence of a sale is **presented without the required analysis of**

² The taxpayer must show by a preponderance of the evidence that an allegation is true or that the issue should be resolved in favor of that party. *Uniform Rules of Procedure for Hearing Contested Cases. Rule 1360-4-1-.02 (7)*.

³ The county's witness, Mr. Spencer, used a sales comparison approach with four comparables to support the County's Board values he also used 2 post assessment sales to show consistency.

comparability, it is difficult or impossible for us to use the sale as an indicator of value. . . . (emphasis supplied) Final Decision and Order at 2.

In analyzing the arguments of the taxpayer, the administrative judge must look to the applicable and acceptable standards in the industry when “comparing” the sales of similar properties as the taxpayer did here (taxpayers exhibit III); paired data analysis is the more appropriate approach.

The Assessment Appeals Commission has also noted in *Payton and Melissa Goldsmith*, Shelby County, Tax year 2001, in quoting the Tennessee Supreme Court in the case of *Carroll v. Alsup*, 107 Tenn. 257, 64 S.W.193 (1901):

It is no ground for relief to him; nor can any taxpayer be heard to complain of his assessments, when it is below the actual cash value of the property, **on the ground that his neighbors' property is assessed at a less percentage of its true or actual value than his own.** When he comes into court asking relief of his own assessment, he must be able to allege and show that his property is assessed at more than its actual cash value. He may come before an equalizing board, or perhaps before the courts, and show that his neighbors' property is assessed at less than its actual value, and **ask to have it raised to his own,** . . . (emphasis supplied)

As to the taxpayers request to be treated fairly he is basically requesting relief on equitable grounds. In a recent decision on a similar argument that the State Board could redress a taxpayer's grievance on “equitable” grounds, Administrative Judge Pete Loesch, stated in *Theoda Dunn*, Henderson County, Tax Years 1999, 2000, 2001, 2002, 2003, and 2004:

. . . As an administrative agency, the State Board's powers are limited to those delegated by the legislature. Thus, for example, in *Trustees of Church of Christ* (Obion County, Final Decision and Order, February 9, 1993), the Assessment Appeals Commission declined to backdate a church's claim of property tax exemption under T.C.A. § 67-5-212 on the following rationale:

There is no doubt that during the tax years at issue here, 1988 and 1989, the applicant was an exempt religious institution using its property for the religious purposes for which it exists, as required by our statute to qualify for property tax exemption. The applicant had not, however, made its application as the statute requires for tax years 1988 and 1989. The church urges the Commission to exercise equitable powers and take into consideration the unfortunate circumstances that led it to delay its application. We have no power to waive the requirements of the exemption statute, however. *Id.* at p. 2. See *also* Tenn. Atty. Gen. Op. 92-62 (October 8, 1992).

With respect to the issue of market value, the administrative judge finds that Mr. Carrick simply introduced insufficient evidence to affirmatively establish the market value of subject property as of January 1, 2006, the relevant assessment date pursuant to Tenn. Code Ann. § 67-5-504(a).

ORDER

It is therefore ORDERED that the following value and assessment be adopted for tax year 2006:

<u>LAND VALUE</u>	<u>IMPROVEMENT VALUE</u>	<u>TOTAL VALUE</u>	<u>ASSESSMENT</u>
\$116,500	\$193,800	\$310,300	\$77,575

LAND MARKET VLAUE: \$804,500

It is FURTHER ORDERED that any applicable hearing costs be assessed pursuant to Tenn. Code Ann. § 67-5-1501(d) and State Board of Equalization Rule 0600-1-.17.

Pursuant to the Uniform Administrative Procedures Act, Tenn. Code Ann. §§ 4-5-301—325, Tenn. Code Ann. § 67-5-1501, and the Rules of Contested Case Procedure of the State Board of Equalization, the parties are advised of the following remedies:

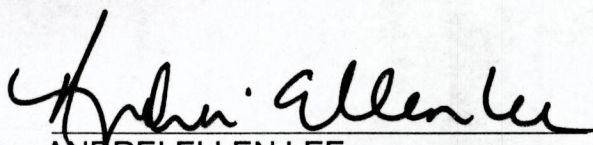
1. A party may appeal this decision and order to the Assessment Appeals Commission pursuant to Tenn. Code Ann. § 67-5-1501 and Rule 0600-1-.12 of the Contested Case Procedures of the State Board of Equalization. Tennessee Code Annotated § 67-5-1501(c) provides that an appeal **“must be filed within thirty (30) days from the date the initial decision is sent.”** Rule 0600-1-.12 of the Contested Case Procedures of the State Board of Equalization provides that the appeal be filed with the Executive Secretary of the State Board and that the appeal **“identify the allegedly erroneous finding(s) of fact and/or conclusion(s) of law in the initial order”**; or

2. A party may petition for reconsideration of this decision and order pursuant to Tenn. Code Ann. § 4-5-317 within fifteen (15) days of the entry of the order. The petition for reconsideration must state the specific grounds upon which relief is requested. The filing of a petition for reconsideration is not a prerequisite for seeking administrative or judicial review; or

3. A party may petition for a stay of effectiveness of this decision and order pursuant to Tenn. Code Ann. § 4-5-316 within seven (7) days of the entry of the order.

This order does not become final until an official certificate is issued by the Assessment Appeals Commission. Official certificates are normally issued seventy-five (75) days after the entry of the initial decision and order if no party has appealed.

ENTERED this 1st day of March, 2007.



ANDREI ELLEN LEE
ADMINISTRATIVE JUDGE
TENNESSEE DEPARTMENT OF STATE
ADMINISTRATIVE PROCEDURES DIVISION

c: Tony & Linda Carrick
Ronda H. Clanton, Assessor of Property